

Hi Chris-

I have read through both the core Statewide Bacteria TMDL document and the Little River Watershed Summary for Muddy Brook and Peckham Brook, which you and Traci had provided to me a few weeks ago. Thank you (and Traci) for taking time to advise me of this project last month. My comments on these 2 documents are summarized below. As you previously indicated to me, the deadline for submission of comments is today (August 2, 2012).

Comment #1:

The introductory discussion of the Draft Bacteria TMDL indicates that it is a guide for future TMDL implementation by watershed stakeholders where impairments are documented. In Section 4.1, it is stated that DEEP is responsible for assessing CT's Water Quality and attainment of Water Quality Standards. The subsequent discussion within section 4.1, however, is limited to assessment of water quality through DEEP's ambient monitoring efforts and data from other sources, including USGS and the Department of Agriculture—Bureau of Aquaculture. Aside from DEEP's role in identifying impaired stream segments and formulating watershed based mitigation activities, no similar discussion is provided regarding DEEP's role in assuring attainment of the Water Quality Standards either in general or as it pertains to recommended watershed based mitigation activities. At a minimum, a broad discussion of DEEP's regulatory and planning roles with regard to point source and non-point source activities would be helpful here—especially where these roles connect or intersect with local stakeholders. I believe that this lack of clarity is problematic, especially with regard to onsite subsurface sewage disposal systems, because the jurisdictional lines and roles of DEEP and its stakeholders are not always distinct and independent.

Comment #2:

There is an opportunity in Section 2.2.2 to provide some explanation of DEEP's regulatory role with regard to subsurface sewage disposal systems (SSDS) and Agriculture non-point sources, similar to the explanations provided in the discussion of point sources. Once again, this would provide clarity on where DEEP might have an intersecting or collaborative role. For example, it can be mentioned in the malfunctioning SSDS section that DPH and DEEP in coordination with local health agencies have regulatory responsibilities for these systems.

Comment #3:

In Section 5.3 "Seasonal Conditions," the phrasing of the statement indicating that the "measures implemented to meet the TMDL targets will reduce bacterial concentrations and daily loads..." anticipates implementation of measures that are only recommended actions. The phrasing should state more accurately that the "measures recommended within the Statewide Bacteria TMDL, if implemented, will reduce bacterial concentrations and daily loads..."

Comment #4:

In the Section 6.2.1. discussion of Best Management Practices for stormwater runoff, it is stated that "LID aims to reduce runoff by increasing infiltration to groundwater and plant uptake." The discussion of SW infiltrative systems in this section is much too narrow as it accounts only for the protection of surface water resources from bacteria loading, but DEEP's mandate is to protect the quality of both surface waters and groundwaters. Considering the wide range of pollutants found in stormwater and the ever present risk that leaks, spills and accidental or unplanned releases, particularly from commercial sites, can and often do combine with stormwater runoff or otherwise enter stormwater collection systems, DEEP needs to promote LID practices in a much broader context to ensure that these

stormwater infiltrative systems are appropriately designed to address pollutant loading in general (e.g., nutrients, metals, oils & grease, etc.) and thereby protect groundwater resources. We already have examples in CT of stormwater infiltration systems that, despite the intent to protect surface water quality or achieve zero stormwater runoff, have instead created a greater threat to groundwater.

Comment #5:

The discussion of subsurface sewage disposal systems in Section 6.2.2 is inaccurate regarding regulatory jurisdiction, as it references “design capacity of the system.” Jurisdiction is determined based on both cumulative design flow for a site (which can have multiple systems) and the type of treatment and disposal system(s) that are present. DPH’s jurisdiction is for sites with cumulative design flows of less than or equal to 5,000 gallons per day that employ conventional subsurface sewage disposal systems that are not “Community Sewerage Systems”. DEEP regulatory jurisdiction applies to everything else, which means it includes AT and community systems less than or equal to 5,000 gallons per day. This means that, in practice, there are many sites on which jurisdiction can change over time. For example, a DPH regulated site may have malfunctioning systems that will be addressed by construction of a larger common system (e.g. Community System) that will move the site under DEEP jurisdiction. Another example would be a DEEP site with conventional SSDS’s and initial design flows greater than 5,000 gallons per day, but changes in use later reduce design flows to below 5,000 gpd and the site then becomes DPH’s jurisdiction. These distinctions are important in the minds of the health officials because their view is that they are directly responsible for systems within their regulatory jurisdiction, but they also have formal and informal roles on DEEP jurisdictional systems as a inspection “agent”. This means that we have to be careful when we refer to “septic systems” in general, because these health officials believe we are talking to them in the context of all of our jurisdictional, overlapping and collaborative roles.

Comment #6: [NOTE: The following comment are based on review of one watershed summary (i.e., “Little River Watershed Summary—Muddy Brook and Peckham Brook”).]

Regarding Recommended Next Step #2: [A recommendation that the town establish a program to ensure that existing septic systems are properly operated and maintained, create an inventory of existing systems through mandatory inspections, identify failing and sub-standard systems, develop policies to govern replacement, and develop programs to assist citizen’s with system replacement and repair.]

These recommendations are problematic for several reasons. First, as stated in Comment #5, DPH and local health officials will believe they are implicated by these recommendations. When they hear DEEP talking about septic systems, their view is that we mean all onsite treatment and disposal systems over which DEEP, DPH and local health officials have jurisdictional, overlapping and collaborative roles. Second, and related to the first point, they will be looking to us to lead their efforts through providing direct support for outreach, funding and inspection and will be asking the question: “How are you (DEEP) carrying out these recommendations on DEEP jurisdictional sites---or are you telling us (the local health officials) to do this?” Lastly, any movement on these recommendations can only happen following front-end outreach and planning discussions of the objectives, first internally and then with DPH and local stakeholders. In its current state, these recommendations when considered in the context of the core document are silent on DEEP’s role while imparting what appear to be far reaching objectives on local communities and, consequently, local health and DPH.

Regarding Recommended Next Step #4: [A recommendation to evaluate education & outreach programs regarding animal waste.]

Any educational and outreach efforts to address agricultural waste need to be coordinated with the DEEP Agriculture Program as some of these sites may already be actively working with DEEP, NRCS or others.

Thank you for the opportunity to submit comments on this proposal. Please contact me should you have any questions. --Mike

Michael Hart
Supervising Sanitary Engineer
Water Permitting & Enforcement Division
Bureau of Materials Management and Compliance Assurance
Connecticut Department of Energy and Environmental Protection
79 Elm Street, Hartford, CT 06106-5127
P: 860.424.3819 | F: 860.424.4074 | E: michael.hart@ct.gov



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